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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,606	03/29/2004	Dino Bongini	Q80770	9741
23373	7590	01/07/2005	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			PERRIN, JOSEPH L	
			ART UNIT	PAPER NUMBER
			1746	

DATE MAILED: 01/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

<i>Office Action Summary</i>	Application No.	Applicant(s)
	10/810,606	BONGINI, DINO
	Examiner Joseph L. Perrin, Ph.D.	Art Unit 1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 13-17 and 19-21 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-12 and 18 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 29 March 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20040924.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

1. This application contains claims directed to the following patentably distinct species of the claimed invention: Figures 1 & 5.
2. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic.
3. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.
4. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).
5. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the

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inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

6. During a telephone conversation with Mr. Brian Hannon on 05 January 2005 a provisional election was made without traverse to prosecute the invention of Figure 1, claims 1-12 & 18. Affirmation of this election must be made by applicant in replying to this Office action. Claims 13-17 & 19-21 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### ***Specification***

The abstract of the disclosure is objected to because there appears to be some minor typographical errors: "ABSRACT" shoud be --ABSTRACT--; the end of the abstract is missing punctuation; "(Figure 6)" at the end of the abstract should be deleted. Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-12 & 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10. A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 1 recites the broad recitation "Laundry washing and/or drying machine", and the claim also recites "in particular of the front loading type" which is the narrower statement of the range/limitation. Similarly, claims 6-7 recites the broad recitation "plastic

material", and the claim also recites "in particular polypropylene" which is the narrower statement of the range/limitation.

***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1-5, 8, 12 & 18 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 9419048 to FRAGARIA (submitted by applicant; electronic translation supplied by Examiner). Re claims 1-5, FRAGARIA discloses (for instance, Figures 1, 2, & 5) a washing machine M in a cabinet with the upper portion housing a conventional front loading washing machine and the lower portion having a delimited recess for housing a horizontally slideable container 3. Re claim 8, the recess has surfaces which appear to connect to the face of the lower portion 1 (Figure 2). Re claims 12 & 18, FRAGARIA further discloses the washing machine supported on feet 13 and the container 3 on wheels 5 (Figures 1 & 2, respectively). Recitation of FRAGARIA reads on applicant's claimed structure.

13. Claims 1-5, 8 & 12 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 3212527 to LEPPER (submitted by applicant; electronic translation supplied by Examiner). Re claims 1-5, LEPPER discloses (for

instance, Figures B-C) a washing machine in a cabinet with the upper portion housing a conventional front loading washing machine and the lower portion having a delimited recess for housing a horizontally slidable container. Re claim 8, the recess has surfaces which appear to connect to the face of the lower portion (Figure C). Re claim 12, LEPPER further discloses the washing machine supported on feet (Figures B-C). Recitation of LEPPER reads on applicant's claimed structure.

14. Claims 1-5, 8-9, 11-12 & 18 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 1233100 to FUMAGALLI. Re claims 1-2, FUMAGALLI discloses a front loading washing machine having a cabinet 1 with a top space 2 housing a washing tub 4 and drum 8 and a bottom space (recess) housing a trolley 11 and container 13 via a front opening in the cabinet (see Figures 1-3 and paragraphs [0010] – [0011]). Re claims 2-5, FUMAGALLI further discloses the bottom space of the cabinet 1 being defined by surfaces thereby receiving the trolley/container, which reads on applicant's "delimited" limitations (see Figures 1-3). Re claim 8, FUMAGALLI further discloses the cabinet formed by a front wall as reference numeral "2", shown in Figures 1-2 (the covering in Figure 2 is believed to be omitted to view the inside structure of the washing machine, it is further noted that one of ordinary skill would at once envisage a front panel/wall which is standard for appliances). Re claim 9, FUMAGALLI further discloses dampers 7 connected to the bottom of tub 4 and to the bottom of the cabinet, the recess extending between the dampers (see Figure 2 and relative associated text). Re claims 11-12, FUMAGALLI further discloses detergent

dispenser 50 located on the inside of drum door/window 9 (see, Figure 3 and paragraph [0010]) and lower support feet (not numbered, see Figures 1-3). Re claim 18, FUMAGALLI further discloses using wheels to horizontally slide the trolley (not numbered, see horizontal slide 12 with wheels associated therewith in Figure 1). Recitation of FUMAGALLI reads on applicant's claimed structure.

### ***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

17. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor

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and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

18. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over FUMAGALLI or FRAGARIA in view of EP 1205129 to MAYER. Recitation of FUMAGALLI and FRAGARIA are repeated here from above. FUMAGALLI does not expressly disclose the materials of the cabinet assembly. FRAGARIA discloses using “steel or other material” (page 3, paragraph 3 of translation) but does not expressly disclose using plastic. MAYER teaches that it is known to utilize plastic, particularly polypropylene, in base portions of a washing machine assembly (having a storage container in the base) due to availability as “cheap raw material in large quantities” (see paragraphs [0027] – [0032] of electronic translation). Therefore, the position is taken that a person of ordinary skill in the art at the time the invention was made would have been motivated to construct the washing machine base portions of FUMAGALLI or FRAGARIA with plastic materials for economical advantages.

19. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over FUMAGALLI. Recitation of FUMAGALLI is repeated here from above. FUMAGALLI further discloses using counterweights for front and rear sections of the tub: counterweight 14/24 positioned on the lower rear of the tub & counterweight 15/25 positioned on the lower front of the tub, as well as motor 16/26 as a counterweight (see Figures 1-4 & paragraphs [0013], [0017]).

However, FUMAGALLI does not expressly disclose positioning the rear counterweight on top of the tub. It would have been obvious to one having ordinary skill in the art at the time the invention was made to rearrange the rear tub weight from the bottom of the tub to the top of the tub, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. It is noted that either arrangement (i.e. top or bottom) would appear to provide the same function, i.e. providing counterweight to the rear of the tub.

### ***Conclusion***

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent Application Publication No. 2004/0221624 to FUMAGALLI, which is substantially cumulative to and related to EP 1233100 cited above.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph L. Perrin, Ph.D. whose telephone number is (571)272-1305. The examiner can normally be reached on M-F 7:00-4:30, except alternate Fridays.

22. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael E. Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

23. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Joseph L. Perrin, Ph.D.  
Examiner  
Art Unit 1746

jlp

A handwritten signature in black ink, appearing to read "Joseph L. Perrin".